

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DEANNA STROM; BINTOU OUATTARA; SEHAM
SWAILAM; ZETA CHARTER SCHOOLS; PERSISTENCE
PREPARATORY ACADEMY; VALENCE COLLEGE
PREP; BUFFALO COLLEGIATE CHARTER SCHOOL; and
CARDINAL MCCLOSKEY COMMUNITY CHARTER
SCHOOL,

Plaintiffs,

v.

MIGUEL CARDONA, in his official capacity as Secretary of
the U.S. Department of Education; and U.S. DEPARTMENT
OF EDUCATION,

Defendants.

22 Civ. 04678 (AT)

CERTIFICATION OF ADMINISTRATIVE RECORD

I, Anna Hinton, Ph.D., am the Director of the Charter School Programs Office, Office of Elementary and Secondary Education (OESE), U.S. Department of Education (Department or ED). I hereby certify, to the best of my knowledge and belief, that the documents numbered ED1 through ED2187, as provided to me by CSP staff, comprise the complete administrative record for the Department's July 22, 2021 letter to the New York State Education Department (NYSED) disapproving its request for a waiver to enable NYSED to repurpose \$886,665 in funds awarded under its Fiscal Year (FY) 2018 Expanding Opportunity Through Quality Charter Schools Program – Grants to State Entities (CSP SE) program grant to reimburse costs previously incurred by charter school subgrantees under NYSED's FY 2011 Charter Schools Program – Grant to State Educational Agencies (CSP SEA) program grant. The documents are identified in the attached Administrative Record Index.

The administrative record consists of the evidence OESE considered in the course of the

decision-making process, including the Notices Inviting Applications (NIAs), NYSED’s applications for funds, peer reviewer comments, Grant Award Notifications (GANs), and formal correspondence, but does not include deliberative materials. *See Comprehensive Cmty. Dev. Corp. v. Sebelius*, 890 F. Supp. 2d 305, 308-09 (S.D.N.Y. 2012) (articulating standard governing scope of the administrative record); *id.* at 312 (recognizing that “deliberative materials antecedent to the agency’s decision fall outside the administrative record”).

Dated: October 7, 2022

ANNA HINTON Digitally signed by ANNA HINTON
Date: 2022.10.07 13:10:45 -04'00'

Anna Hinton, Ph.D.
Director, Charter School Programs Office
U.S. Department of Education
Office of Elementary and Secondary
Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Administrative Record Index

Beginning Bates #	Date	Author	Document Description
Notices Inviting Applications for FY 2011 CSP SEA Grant Competition and FY 2018 CSP SE Grant Competition			
ED1-9	January 25, 2011	James H. Shelton, III, Assistant Deputy Secretary for Innovation and Improvement, ED	FY 2011 Notice Inviting Applications for New Awards under the CSP SEA Program
ED10-19	March 9, 2018	Margo Anderson, Acting Assistant Deputy Secretary for Innovation and Improvement, ED	FY 2018 Notice Inviting Applications for New Awards under the CSP SE Program
NYSED's FY 2011 CSP SEA Application (PR/Award Number U282A1100005), Amendments, and Related Documents			
ED20-139	March 17, 2011	Valerie Grey, Chief Operating Officer, NYSED; and Mary Drzonsc, NYSED	NYSED's Application for Funds under the FY 2011 CSP SEA Program
ED140-142	May 30, 2019	Elizabeth R. Berlin, Executive Deputy Commissioner, NYSED	Letter Requesting No-Cost Extension through July 21, 2020
ED143-147	February 27, February 28, March 4, June 5, July 18, and July 22, 2019	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP Program Officer, ED	Series of E-mails Notifying NYSED of Due Date for Annual Performance Report, Approving No-Cost Extension, and Notifying NYSED of Expiration of Funds on September 30, 2019
ED148-150	October 13, 2020	Valerie Kowalski, NYSED; and Ashley Gardner, CSP Program Officer, ED	Series of E-mails Related to NYSED's Request for a Waiver to Enable it to Repurpose Funds under FY 2018 CSP SE Grant to Reimburse Costs Previously Incurred by Charter Schools under NYSED's FY 2011 CSP SEA Grant

Beginning Bates #	Date	Author	Document Description
ED151-162	October 19, October 22, and October 26, 2020	David Frank, NYSED; and Ashley Gardner, CSP Program Officer, ED,	Series of E-mails Discussing Closeout of Grant and Submission of Waiver Request to Enable NYSED to Repurpose Funds under FY 2018 CSP SE Grant to Reimburse Costs Previously Incurred by Charter Schools under NYSED's FY 2011 CSP SEA Grant
Grant Award Notifications and Obligation History for NYSED's FY 2011 CSP SEA Grant (PR/Award No. U282A110005)			
ED163-166	August 2, 2012	Erin Pfeltz, CSP, ED	Continuation Grant Award Notification (Action 3)
ED167-204	July 10, 2015	Erin Pfeltz, CSP, ED	Continuation Grant Award Notification (Action 14)
ED205	July 21, 2011, August 2, 2012, September 28, 2012, August 7, 2013, September 27, 2013, August 11, 2014, September 26, 2014, July 10, 2015, September 30, 2019, and September 30, 2020	ED G5 Grants Management System	Obligation History
NYSED's FY 2018 CSP SE Application (PR/Award Number U282A180009), Amendments, and Related Documents			
ED206-1626	April 19, 2018	Mary Drzonosc, Executive Deputy Commissioner, NYSED	NYSED's Application for Funds under the FY 2018 CSP SE Program
ED1627-1664	June 12, 2018	Independent Peer Reviewers	Completed Technical Review Forms for NYSED's Approved Application for Funds under the FY 2018 CSP SE Grant Competition
ED1665-1671	November 29, 2018	Valerie Martin Kowalski, NYSED	Cover E-Mail and Attachment Amending Approved Application to Clarify Application Requirements
ED1672-1677	November 29, 2018	Valerie Martin Kowalski, NYSED	Proposed Amendments Clarifying Application Requirements

Beginning Bates #	Date	Author	Document Description
ED1678-1690	October 30, October 31, November 8, November 13, November 14, November 15, 2019; and March 12, 2020	Valerie Martin Kowalski, NYSED; Daniel Behrend, CSP, ED; and Ashley Gardner, CSP, ED	Series of E-mails related to Proposed Revisions to Budget and Budget Narrative; Revised ED 524 Form, and Revised Budget Narrative Attachments
ED1691-1696	May 30, 2019	Elizabeth Berlin, Executive Deputy Commissioner, NYSED	Letter Requesting a \$15 Million Supplemental Award and Approval to Amend NYSED's Approved Application to Re-allocate \$8,750,000 from Years 4 and 5 of the Grant to Year 1 of the Grant
ED1697-1699	October 7, and October 9, 2019	Valerie Martin Kowalski, NYSED; and John, CSP Data Collection Team, WestEd (ED's Contractor)	Series of E-mails Requesting that NYSED Update its Data Collection Form to Reflect any Subgrant Activity Since Spring 2019
ED1700-1703	November 1, 2019	Daniel Behrend, ED; and Valerie Martin Kowalski, NYSED	Series of E-mails Related to ED's Approval of NYSED's Request to Amend Application to Change Planning Period from 12 Months to 18 Months
ED1704-1705	January 28, 2020	Valerie Martin Kowalski, NYSED	E-mail Requesting a Waiver to Enable NYSED to Award a Second Subgrant to Wildflower New York Charter School
ED1706	April 14, 2020	David M. Frank, Executive Director, Charter School Office, NYSED	E-mail Transmitting Letter Requesting a Waiver to Enable NYSED to Award Remote Learning Subgrants to Charter Schools that Did Not Have Current CSP Subgrants in Response to the COVID-19 Pandemic
ED1707-1712	April 14, 2020	Shannon L. Tahoe, Interim Commissioner, NYSED	Letter Requesting a Waiver to Enable NYSED to Award Remote Learning Subgrants to Charter Schools that Did Not Have Current CSP Subgrants in Response to the COVID-19 Pandemic

Beginning Bates #	Date	Author	Document Description
ED1713-1718	April 24, 2020	Valerie Martin Kowalski, NYSED	Cover E-mail and Attachment Requesting Approval to Amend Approved Application to Change Planning Period from 12 Months to 18 Months
ED1719	April 24, 2020	Valerie Martin Kowalski, NYSED	Proposed Application Amendment to Change Planning Period from 12 Months to 18 Months
ED1720-1721	May 9, 2020	Valerie Martin Kowalski, NYSED	Cover E-mail and Attachment Requesting Approval to Amend Approved Application to Change Performance Measures Related to Technical Assistance Partnerships
ED1722-1726	May 9, 2020	Valerie Martin Kowalski, NYSED; and Ariel Jacobs, CSP Program Officer, ED	Series of E-mails Related to NYSED's Proposed Application Amendment to Change Performance Measures Related to Technical Assistance Partnerships
ED1727-1729	May 9, 2020	Valerie Martin Kowalski, NYSED	Proposed Application Amendment to Change Performance Measures Related to Technical Assistance Partnerships
ED1730-1731	June 1, 2020	Kathryn Meeley, Acting CSP Director, ED	Letter Granting NYSED's Request for a Waiver to Enable it to Award a Second Subgrant to Wildflower New York Charter School
ED132-1735	July 1, July 2, September 4, September 8, and October 23, 2020	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP Program Officer, ED	Series of E-mails Related to ED's Request for an Updated Budget Narrative
ED1736-1740	October 26, 2020	Frank T. Brogan, Assistant Secretary, OESE, ED	Letter Approving NYSED's Request for a COVID-19 Waiver to Award Remote Learning Subgrants to Charter Schools that Did Not Have Current CSP Subgrants

Beginning Bates #	Date	Author	Document Description
ED1741-1743	October 30, 2020	Phyllis D. Morris, Chief Financial Officer, NYSED	Letter Requesting a Waiver to Enable NYSED to Repurpose Funds under its FY 2018 CSP SE Grant to Reimburse Costs Previously Incurred by Charter School Subgrantees under NYSED's FY 2011 CSP SEA Grant
ED1744-1746	March 17, and March 26, 2021	Valerie Martin Kowalski, NYSED; and Jennifer Todd, CSP Supervisor	Series of E-mails Related to Reporting Requirements under NYSED's Approved COVID-19 Waiver
ED1747-1748	May 4, 2021	Jennifer Todd, Supervisor, CSP, ED	Letter Notifying NYSED of Reporting Requirements
ED1749-1750	July 22, 2021	Ian Rosenblum, Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, ED	Letter Disapproving NYSED's Request for a Waiver to Enable NYSED to Repurpose Funds under its FY 2018 CSP SE Grant to Reimburse Costs Previously Incurred by Charter School Subgrantees under NYSED's FY 2011 CSP SEA Grant
Data Collection Forms for NYSED's FY 2018 CSP SE Grant			
ED1751	March 2019	John, CSP Data Collection Team, WestEd (ED's Contractor)	CSP Data Collection Form (Summary Sheet)
ED1752	October 7, 2019	John, CSP Data Collection Team, WestEd (ED's Contractor)	CSP Data Collection Form (Summary Sheet)
ED1753	May 2020	John, CSP Data Collection Team, WestEd (ED's Contractor)	CSP Data Collection Form (Summary Sheet)
ED1754	November 2020	John, CSP Data Collection Team, WestEd (ED's Contractor)	CSP Data Collection Form (Summary Sheet)
ED1755	March 2021	John, CSP Data Collection Team, WestEd (ED's Contractor)	CSP Data Collection Form (Summary Sheet)
Grant Award Notifications and Obligation History for NYSED's FY 2018 CSP SE Grant (PR/Award No. U282A180009)			
ED1756-1805	September 28, 2018	Kathryn Meeley, ED	New Award Grant Award Notification (Action 1)

Beginning Bates #	Date	Author	Document Description
ED1806-1809	October 17, 2018	Ashley Gardner, ED	Administrative Action Grant Award Notification (Action 2)
ED1810-1813	November 6, 2018	Ashley Gardner, ED	Grant Award Notification (Action 3)
ED1814-1817	March 4, 2019	Ashley Gardner, ED	Administrative Action Grant Award Notification (Action 4)
ED1818-1821	September 12, 2019	Ashley Gardner, ED	Continuation Grant Award Notification (Action 5)
ED1822-1868	September 25, 2019	Kia Weems, ED	Continuation Grant Award Notification (Action 6)
ED1869-1874	September 25, 2019	Kia Weems, ED	Supplement Grant Award Notification (Action 7)
ED1875-1878	December 9, 2019	Ashley Gardner, ED	Administrative Action Grant Award Notification (Action 8)
ED1879-1882	March 12, 2020	Ariel Jacobs, ED	Administrative Action Grant Award Notification (Action 9)
ED1883-1934	September 25, 2020	Kia Weems, ED	Continuation Grant Award Notification (Action 10)
ED1935-1938	March 19, 2021	Ashley Gardner, ED	Administrative Action Grant Award Notification (Action 11)
ED1939	September 28, 2018, September 25, 2019, September 25, 2020, September 15, 2021, and August 19, 2022	ED's G5 Grants Management System	Obligation History for NYSED's FY 2018 CSP SE Grant
Route Payment Requests for NYSED's FY 2018 CSP SE Grant (PR/Award No. U282A180009)			
ED1940-1945	April 28, 2020	Valerie Martin Kowalski, NYSED; Ashley Gardner, CSP, ED; and Ariel Jacobs, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED1946-1955	April 28, 2020	ED	Ten Route Payment Request Approvals
ED1956-1961	August 25, 2020	Valerie Martin Kowalski, NYSED; Ashley Gardner, CSP, ED; and Ariel Jacobs, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED1962-1973	August 25, 2020	ED	Twelve Route Payment Request Approvals
ED1974-1975	February 27, 2020	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails Discussing Removal of NYSED's Route Payment Status
ED1976	February 27, 2020	ED	E-mail Notifying NYSED of Removal of Route Payment Status

Beginning Bates #	Date	Author	Document Description
ED1977-2014	March 4, 2020	Valerie Martin Kowalski, NYSED; and Ariel Jacobs, CSP, ED	Series of E-mails and Attachments Requesting Reimbursement of Costs, Revisions to Performance Measures, and Access to G5 System
ED2015-2020	December 4, 2020	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2021-2026	December 11, 2020	ED	Six Route Payment Request Approvals
ED2027-2032	December 31, 2020	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2033-2036	December 31, 2020	ED	Four Route Payment Request Approvals
ED2037-2042	February 12, 2021	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2043-2046	February 12, 2021	ED	Four Route Payment Request Approvals
ED2047-2048	March 10, 2021	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2049-2050	March 12, 2021	ED	Two Route Payment Request Approvals
ED2051-2053	March 31, 2021	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2054	March 31, 2021	ED	One Route Payment Request Approval
ED2255-2056	April 15, 2021	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2057	April 16, 2021	ED	One Route Payment Request Approval
ED2058-2060	May 5, 2021	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP, ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2061	May 7, 2021	ED	One Route Payment Request Approval
ED2062	May 19, 2021	ED	One Route Payment Request Approval
ED2063-2065	May 27, 2021	Valerie Martin Kowalski, NYSED; and ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2066	May 27, 2021	ED	One Route Payment Request Approval
ED2067-2068	June 10, 2021	Valerie Martin Kowalski, NYSED; and ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2069	June 10, 2021	ED	One Route Payment Request Approval

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ED2070-2071	June 28, 2021	Valerie Martin Kowalski, NYSED; and ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2072-2073	June 28, 2021	ED	Two Route Payment Request Approval
ED2074-2075	July 8, 2021	Valerie Martin Kowalski, NYSED; and ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2076	July 8, 2021	ED	One Route Payment Request Approval
ED2077-2078	July 16, 2021	Valerie Martin Kowalski, NYSED; and ED	Series of E-mails and Attachment Requesting Reimbursement of Costs
ED2079-2080	July 16, 2021	ED	Two Route Payment Request Approval
Monitoring, Annual Performance Reports, Interim Performance Reports for NYSED's FY 2018 CSP SE Grant (PR/Award No. U282A180009)			
ED2081-2096	FY 2018		Annual Performance Report for Budget Period 1
ED2097-2117	FY 2019		Annual Performance Report for Budget Period 2
ED2118-2121	January 27, and February 9, 2021	Jennifer Todd, CSP Supervisor, ED; and Ashley Gardner, CSP Program Officer, ED	Cover e-mail and Monitoring Notification Letter
ED2122-2128	March 1, March 2, March 10, April 23, May 3, May 14, May 18, May 20, June 14, June 17, June 25, and July 8, 2021	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP Program Officer, ED	Series of E-mails and Attachments Related to NYSED's FY 2021 Annual Performance Report for Budget Period 3
ED2129-2139	May 4, May 26, June 28, July 1, July 2, and July 6, 2021	Valerie Martin Kowalski, NYSED; Yianni Alephoritis, CSP Program Officer, ED; and Ashley Gardner, CSP Program Officer, ED; and Jennifer Todd, CSP SE Program Supervisor, ED	Series of E-mails Transmitting Letter Notifying NYSED of Statutory Reporting Requirements and NYSED's FY 2018 Interim Performance Report; Letter Reminding NYSED of Reporting Requirements
ED2140-2143	May 26, 2021	Valeri Martin Kowalski, NYSED	FY 2018 Interim Performance Report
ED2144-2148	July 1, 2021	NSSED	FY 2018 Revised Interim Performance Report
ED2149-2173	FY 2021	NYSED	Annual Performance Report for Budget Period 3

Beginning Bates #	Date	Author	Document Description
Indirect Costs and Cash Management			
ED2174-2175	October 10, 2018, and October 15, 2018	Valerie Martin Kowalski, NYSED; and Ashley Gardner, CSP Program Officer, ED	Series of E-mails Related to NYSED's Approved Indirect Cost Rate Agreement (2017-109)
ED2176-2178	September 29, 2017	Andrew Klippel, NYSED, and Frances Outland, Director, Indirect Cost Group, ED	Approved Indirect Cost Rate Agreement (2017-109)
ED2179-2183	April 29, July 6, July 8, July 14, and July 15, 2022	Valerie Martin Kowalski, NYSED; and Laterica Quinn, Ashley Gardner, Jill Gaitens, and Anna Hinton, Ph.D., CSP, ED	Series of E-Mails Related to NYSED's Approved Indirect Cost Rate Agreement
ED2184-2187	June 22, 2022	Edward Lenart, Director of Finance, NYSED; and Andre Hylton, Director, Indirect Cost Division, ED	Indirect Cost Rate Agreement (2022-002)